

CWP No. 5719 of 2017

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 5719 of 2017
Date of Decision: 12.12.2017**

Poonam and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jagjeet Beniwal, Advocate,
for the petitioners.

Mr. R.K. Doon, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners seek a writ of *mandamus* directing the respondents to allow them to participate in the selection process for appointment to posts of Trained Graduate Teachers in English, as per the eligibility conditions specified in the clarifications dated 21.09.2016 and 27.09.2016 (Annexures P-6 and P-7 respectively), such clarifications having been issued by the Director, Secondary Education, Haryana.

The first clarification dated 21.09.2016 (on a query raised by Secretary, Haryana Staff Selection Commission), is to the effect that the Chief Secretary Haryana, vide instructions dated 25.03.2016, “has intimated that after due consideration, it has again been decided that if a candidate possesses higher qualifications in the same line as prescribed in the minimum qualifications applicable to a particular post, then he should be considered as eligible for that post. It is therefore, directed that the provision, that if a candidate possesses higher

qualifications in the same line as prescribed in the minimum qualifications applicable to a particular post then he should be considered as eligible for that post. It has been further directed that the provision, that if a candidate possesses higher qualification in the same line as prescribed in the minimum qualification applicable to a particular post, then he should be considered as eligible for that post, he inserted in the service rules, then it should be clarified in the requisitions being sent to HSSC/HPSC.”

The 2nd clarification, dated 27.09.2016, is reproduced below, in the form of a query raised by the Secretary, Haryana Staff Selection Commission, alongwith the answer thereto, by the Director, Secondary Education, Haryana:-

Sr. No.	Issue	Clarification
1.	Whether the commission can consider compulsory English as equivalent to optional English in case of Universities which have given a certificate to this effect?	Yes, the commission can consider compulsory English as equivalent to optional English in case of Universities which have given a certificate to this effect.

The contention of the petitioners therefore is that as a matter of fact, after the aforesaid clarifications were issued, the respondent-Commission should have issued a corrigendum to the original advertisement dated 23.07.2015 (Annexure P-1), in which the closing date for receiving online applications was 21.09.2015, and the Commission should have invited fresh applications with a 'postponed last date for submission of applications'.

It is also contended by learned counsel that the petitioners, obviously, would not be aware of internal communications between the Government and the Commission, unless they were made public by way of issuance of a corrigendum etc. and therefore, even though the petitioners did not apply for the posts in question (TGTs English), they cannot be denied their right to participate in the selection process ongoing, in view of the aforesaid clarifications issued, especially as this Court has already dismissed a bunch of writ petitions in which a challenge

was made by the petitioners therein to the action of the respondent State and Commission in accepting the candidature of applicants who did not have English as an elective subject at the graduate level, but instead had it as a compulsory subject.

Notice having been issued in the petition, learned counsel for the State has, firstly, submitted that the petitioners never ever having applied for the posts in question, at this stage now, when the selection process is almost at its fag end, they cannot be allowed to apply afresh, to which learned counsel for the petitioners submits that the petitioners actually approached this Court on 14.03.2017 by way of this petition.

Learned counsel for the State has also produced in Court the judgment of this Court rendered on 25.10.2017, in CWP No. 26795 of 2016 and connected petitions, dismissing the challenge to acceptance of the candidature of those who had English as a compulsory subject and not as an elective subject at the graduate level.

Though otherwise on merits, had the petitioners approached this Court prior to the written examination conducted in the selection process in question, they would have had, in the opinion of this Court, a right to participate in the selection process, but with the written examination stated to have been held in February 2016, with the result thereof declared in the month of September 2016, and the interview process at its final stages (or having just concluded), the claim of the petitioners cannot be entertained at this stage, as they are not placed on the same 'pedestal' as those who had actually applied in time for the posts in question in the year 2015, and were allowed to take the written examination in February 2016.

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This is so even in the face of the contention of learned counsel for the petitioners that correctly a corrigendum should have been issued in the year 2016, after the clarification was issued by the Director, Secondary Education. That contention too has to be rejected on account of the fact that the entire selection process, in which thousands would have participated, cannot be allowed to reopened at this stage, thereby with even a fresh written examination to be held, almost two years after the original written examination was held.

Had the petitioners approached this Court before the written examination was held in February 2016, they may have been held entitled to participate in the process at that stage. Now, with too much water having flown, that relief cannot be granted to them.

Consequently, this petition is dismissed, with no order as to costs.

December 12, 2017
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes